



China (Taiwan only)

Country Reports on Human Rights Practices - [2000](#)

Released by the Bureau of Democracy, Human Rights, and Labor
February 23, 2001

The March victory of Democratic Progressive Party (DPP) presidential candidate Chen Shui-bian marked the first transition from one political party to another in Taiwan's history. The president appoints the premier, who heads the Executive Yuan (EY), or Cabinet. Constitutional amendments adopted in 1997 provided the Legislative Yuan (LY) with the authority to dismiss the Cabinet with a no-confidence vote. The previous ruling Nationalist Party (KMT) retains the majority in the LY, whose members were elected in a free and fair election in December 1998. In addition to the DPP and KMT, the People First Party and the New Party play significant roles in the LY. The Judicial Yuan (JY) is constitutionally independent of the other branches of the political system, but corruption and political influence remain serious problems. However, the new DPP Government made efforts to eliminate corruption and to diminish political influence over the judiciary.

The National Police Administration (NPA) of the Ministry of Interior (MOI), the NPA's Criminal Investigation Bureau, and the Ministry of Justice (MOJ) Investigation Bureau are responsible for law enforcement relating to internal security. The police and security agencies are under effective civilian control. Some members of the police occasionally committed human rights abuses.

Taiwan has a dynamic, export-oriented, free market economy. Liberalization of the economy diminished the dominant role that state-owned and party-run enterprises played in such major sectors as finance, transportation, utilities, shipbuilding, steel, telecommunications, and petrochemicals. As the economy evolved, services and capital- and technology-intensive industries have become the most important sectors. Major exports include computers, electronic equipment, machinery, and textiles. Citizens generally enjoy a high standard of living and an equitable income distribution.

The authorities generally respect human rights; however, problems remain in some areas. Principal problems during the year included police abuse of detainees; prison overcrowding; political and personal pressures on the judiciary; some infringements on citizens' privacy; violence and discrimination against women; child prostitution and abuse; societal discrimination against Aborigines; restrictions on workers' freedom of association and on their ability to strike; and instances of trafficking in women and children. However, during the year, political and personal pressures on the judiciary decreased significantly.

In his May 20 inaugural address, President Chen declared that Taiwan must include international human rights in its legal code and establish a national human rights committee.

RESPECT FOR HUMAN RIGHTS

Section 1 Respect for the Integrity of the Person, Including Freedom From:

a. Political and Other Extrajudicial Killing

There were no reports of political or other extrajudicial killings.

b. Disappearance

There were no reports of politically motivated disappearances.

c. Torture and Other Cruel, Inhuman, or Degrading Treatment or Punishment

Although the Constitution does not directly address the issues of torture and punishment, the Code of Criminal Procedure stipulates that no violence, threat, inducement, fraud, or other improper means shall be used against accused persons; however, there were credible reports that police occasionally physically abused persons in their custody.

The law allows suspects to have attorneys present during interrogations, primarily to ensure that abuse does not take place (see Section 1.d.). The MOJ claims that each interrogation is recorded and that any allegation of mistreatment is investigated. Nonetheless lawyers and legal scholars note that abuses most often occur in local police stations where interrogations are not recorded and when attorneys often are not present. Informed observers note that police emphasize confessions by suspects as the principal investigative tool. Law enforcement agencies remain weak in scientific investigative skills; however, the NPA has made efforts to improve its investigative skills, upgrading its crime laboratory technology and training crime scene examiners. International observers also have noted that the judicial system sometimes has accepted confessions even when they contradict available physical evidence or logic. The NPA denies that police abuse suspects. It asserts that regulations forbid such abuse and that police who abuse suspects will be punished. The NPA implemented regulations in 1997 to protect further the rights of suspects during questioning, including forbidding the questioning of suspects at night and requiring audio or, whenever possible, videotaping of interrogations. Nevertheless there are credible reports that the physical abuse or the threat of abuse of prisoners is a recurring investigative technique. In one such case in April, in order to obtain a confession, police allegedly physically abused four youths who were suspected of robbing the residence of a prominent person. The head of the police station subsequently made a public apology to the youths when it was discovered that eight other individuals were responsible for the crime. Detainees who are abused physically have the right to sue the police for torture, and confessions shown to have been obtained through torture are inadmissible in court proceedings. In July the parents of the four youths filed suit against the police. In November the Taiwan High Court began a retrial of the "Hsichih Trio"-three youths convicted of murder and sentenced to death in 1992. The three claim that the police tortured them into confessing.

The authorities state that they have made efforts to investigate, prosecute, and punish officials responsible for torture and other mistreatment. Although the basic responsibility for investigating mistreatment lies with prosecutors, the Control Yuan (CY), a coequal branch of the political system that investigates official misconduct, also investigates such cases. While the authorities state that respect for human rights is a part of basic police training, human rights groups assert that the measures the authorities have taken to protect human rights are inadequate to create an ethos of respect for human rights among police and security personnel. Women's and children's rights groups are active in monitoring police and judicial performance and periodically mount campaigns to correct abuses.

Corporal punishment is forbidden under military law and strictly prohibited in practice. The Ministry of National Defense (MND) has taken steps to address the occasional reports of physical abuse of military personnel by promulgating regulations specifying the appropriate treatment of lower ranking personnel and by conducting regular polls of servicemen and their families to discover any abuse. The authorities also have established a telephone hot line to report alleged abuses within the military. Reports of abuse are investigated and handled according to the law. In addition the MND has established practical training and curriculums for all military personnel who have contact with new recruits. Pressure from parents of recruits and a program to retain recruits also have contributed to an apparent reduction in abuses. In 1999 the MND established a committee for the protection of the rights of military personnel. Using the expertise of outside consultants, the committee handles personal problems of military personnel and is part of the MND's effort to promote "humanitarian management" within the military. In January the MND began quarterly evaluations of commanding officers' performance in preventing injuries to soldiers under their command. In August the MND issued a decree prohibiting officers from "bullying" new recruits, spelling out the proscribed behavior, and specifying stiff penalties for violations.

Prison conditions generally meet minimum international standards. However, overcrowding at the 49 prisons and overly long stays at the detention centers for illegal aliens remained problems, although the authorities have begun to address this latter problem (see Section 2.d.). Despite an increase in facilities since 1997, the number of inmates detained at year's end exceeded capacity by 7,385. The primary reason for overcrowding has changed. The number of parolees dropped, and the number of inmates rose after a 1997 amendment to the Code of Criminal Procedure reversed a 1994 amendment that had allowed prisoners to be paroled after serving one-third, rather than one-half, of their sentences. On the other hand, the number of incarcerated drug users, which previously had been the fastest growing category of inmates, leveled off. In addition the Ministry of Justice has set up drug treatment facilities to reduce the number of addicts in the prison population.

The authorities permit prison visits by human rights monitors.

d. Arbitrary Arrest, Detention, or Exile

The law prohibits arbitrary arrest and detention, and the authorities generally observe this prohibition. Police legally may arrest without a warrant anyone they suspect of committing a crime for which the punishment would be imprisonment of 5 years or more and may question persons without a formal summons when circumstances are too urgent to report to a public prosecutor. However, immediately after detaining a suspect the authorities must apply to a prosecutor for a warrant to detain the arrestee for up to 24 hours and must give written notice to the detainee or a designated relative or friend, stating the reason for the arrest or questioning. Indicted persons may be released on bail at judicial discretion. In May the NPA ordered all police stations to prohibit the media from photographing persons under detention and to cease providing the names of detainees to the media. However, this order is not being observed in practice, as detainees frequently appear on television news programs.

In 1997 an amendment to the Code of Criminal Procedure shifted the power of investigative detention from the prosecutors to the courts. Under the 1997 law prosecutors must apply to the courts within 24 hours after arrest for permission to continue detaining an arrestee. The duration of this pretrial detention is limited to 2 months, and the courts may approve a single extension of 2 months. Limits also were set for detention during trial. If a crime is punishable by less than 10 years' imprisonment, then no more than 3 extensions of 2 months each may be granted during the trial and appellate proceedings. During the second appeal, only one extension may be granted. The authorities generally observe these procedures, and trials usually take place within 3 months of indictment.

The revised Code of Criminal Procedure requires the police to inform a suspect during an interrogation of the specific charges in question, the right to remain silent, the right to counsel, and the right to ask the police to investigate evidence that would be favorable to the suspect. If the charges are amended subsequently, the police must inform the suspect. The authorities generally respect a detainee's request to have a lawyer present during the investigation phase, but defense lawyers and human rights groups continue to complain that the rules do not provide adequate protection since suspects often do not have legal representation during police interrogation. A contributing factor is that there is no legal requirement that indigent persons be provided counsel during police interrogation, although such counsel is provided during trials. Informed observers report that the "public defense counsels" do not provide effective defense assistance. They typically do not appear until the final debate hearing of the trial, and they seldom spend a significant amount of time discussing the case with their clients.

The authorities do not use forced exile.

e. Denial of Fair Public Trial

The Constitution provides for an independent judiciary; however, corruption and political influence remain serious problems. The new DPP Government made efforts to eliminate corruption and to diminish political influence.

The Judicial Yuan (JY) is one of the five coequal branches of the political system. The JY is headed by a president and a vice president and also contains the 16-member Council of Grand Justices (CGJ), which interprets the Constitution as well as laws and ordinances. Subordinate JY organs include the Supreme Court, high courts, district courts, the Administrative Court, and the Committee on the Discipline of Public Functionaries. In 1999 the LY passed legislation adding an additional level to the Administrative Court to provide for judicial review.

The law provides for the right of fair public trial, and this is generally respected in practice. Judges, rather than juries, decide cases; all judges are appointed by, and are responsible to, the JY. In a typical court case, parties and witnesses are interrogated by a single judge but not directly by a defense attorney or prosecutor. The judge may decline to hear witnesses or to consider evidence that a party wishes to submit if the judge considers it irrelevant; a refusal to hear evidence may be a factor in an appeal. Trials are public, but attendance at trials involving juveniles or potentially sensitive issues that might attract crowds may require court permission.

A defendant has the right to an attorney. If the defendant is charged with committing a crime for which the penalty is 3 or more years' imprisonment or if the defendant is indigent, the judge may assign an attorney. Attorneys assigned to defendants generally assist during the investigative phase of a case and at trial, but generally are not present during police interrogations. Informed observers report that public defense counsels do not provide effective defense assistance (see Section 1.d.). A 1997 law states that a suspect may not be compelled to testify. The Code of Criminal Procedure states that a confession shall not be the sole evidence used to find a defendant guilty. Nonetheless informed observers note that convictions frequently result from a

combination of a confession and circumstantial evidence of varying quality. However, in September a Taipei district court dropped drug trafficking charges against a suspect. The police were unable to present any evidence other than a confession and had failed to record the interrogation. Any convicted person has the right to appeal to the next higher court level. Persons sentenced to terms of imprisonment of 3 years or more may appeal beyond that level. The Supreme Court automatically reviews life imprisonment and death sentences. Under the law, prosecutors have the right to appeal verdicts of not guilty to the next higher court level.

The LY passed legislation in 1997 revising procedures in the 1985 "Antihoodlum" Law, which had departed from international standards of due process. The revised procedures require all witnesses to testify openly but provide procedures for their subsequent protection, "in exceptional circumstances." In 1995 the Council of Grand Justices (CGJ) declared unconstitutional the administrative procedures that had been used to sentence hoodlums to reformatory education.

In February opposition political parties charged the then-ruling KMT administration with interference in the judicial process when a court ordered the search of the residence of the former president of the LY in connection with a banking scandal. The case had been under investigation for more than a year, but the residence was not searched until shortly after the politician in question quit the KMT to support an opposition presidential candidate. The authorities asserted that new evidence had come to light that mandated the search.

The JY took measures to reduce political influence on judges. Measures taken include: Judicial appointments and promotions are decided by secret ballot of an independent committee; judicial decisions no longer are subject to review by presiding judges, except in the case of decisions by "assistant judges;" distribution of cases is decided by the judges themselves; and judges and the President of the JY are prohibited from taking part in political activities. The new administration's anticorruption campaign also has reinforced the JY's efforts to eliminate judicial corruption. The JY's anticorruption department increased efforts to uncover possible corruption cases during the year and is more responsive to public complaints regarding judicial personnel. Measures from the 1999 National Judicial Reform Conference strengthened the supervision and evaluation of judge's performance. These factors have reduced the incidence of judicial misconduct; however, occasionally individual judges still are found to be involved in illegal activities. In September a judge in Tainan was arrested on suspicion of running a brothel since 1998 and using his position to protect the business from police scrutiny.

In June the Shilin District Court in Taipei city and the Miaoli county courts adopted the new trial system in response to the JY President's 1999 judicial reform proposals. Serving as a potential model for the rest of the island, the defendant-oriented trial system will better protect the rights of the accused. Although the LY has yet to enact the JY President's proposed code of judicial conduct, the proposals have resulted in revised precepts for evaluation of judicial performance, and strengthened reviews of judges' financial disclosure reports.

In 1999 the law was revised to create the position of law clerks. Working as assistants to judges, the law clerks are intended to improve judicial performance and the quality of decisions.

There were no reports of political prisoners.

f. Arbitrary Interference with Privacy, Family, Home, or Correspondence

The Constitution and sections of the Criminal and Civil Codes contain provisions protecting privacy. A prosecutor or a judge must issue a warrant before a search, except when "incidental to arrest." However, critics claim that the "incidental to arrest" provision is not only unconstitutional but also often interpreted broadly by police to justify searches of locations other than actual arrest sites. According to the NPA, warrantless searches are allowed only in special circumstances, such as to arrest an escapee or if facts indicate a person is in the process of committing a crime. In any such case, the police must file a report with the prosecutor or court within 24 hours. A policeman who carries out an illegal search may be sued for illegal entry and sentenced to up to 1 year in prison. Few defendants or their spouses have filed charges against policemen found to have obtained evidence illegally. Furthermore illegally obtained evidence is not excluded automatically from consideration by the court; instead, its admission is left to the discretion of the judge. Increasingly judges are excluding illegally obtained evidence, although in the past such evidence was admitted and frequently provided the basis for conviction. For example, in September a judge refused to admit evidence obtained through an illegal wiretap.

In addition to criminal suspects, persons are subject to searches and identity checks by police in public places. Roadblocks to check vehicles randomly are conducted routinely. Pedestrians also are subject to identity checks. Such checks are based only on a section of the Police Administration Law, and police officers

are given wide discretion.

The wiretapping of telephones is a serious problem. The Telecommunication Law and Code of Criminal Procedure provide that judicial and security authorities may file a written request to a prosecutor's office to monitor telephone calls to collect evidence against a suspect involved in a major crime. The 1999 Telecommunications Protection and Control Law sought to bring unauthorized wiretapping under control by imposing severe penalties. The Ministry of Justice maintains that there are many fewer applications for wiretaps under the new law because of the tighter regulations in force. According to the NPA, 3,377 police wiretaps were approved in the 12-month period after the new legislation took effect, compared with more than 15,000 telephones that were reportedly wiretapped in 1999. The law also regulates wiretapping by the intelligence services.

Section 2 Respect for Civil Liberties, Including:

a. Freedom of Speech and Press

The Constitution provides for freedom of speech and of the press, and the authorities respect these rights in practice.

Print media represent the full spectrum of views within society. However, some political influence still exists over the electronic media, particularly broadcast television stations. The ruling DPP is associated with Formosa TV (FTV), an island-wide broadcast television station based in Kaohsiung. The Government is the largest shareholder of Taiwan Television Enterprise (TTV), and the military is the largest shareholder of the Chinese Television System (CTS), although it does not appear to play any role in programming. The opposition KMT is the largest shareholder of China Television Company (CTV). A fifth island-wide broadcast station run by a nonprofit public television foundation under the Government Information Office (GIO) was inaugurated in 1998. However, the existence of approximately 100 cable television stations, some of which carry programming openly critical of the various political parties, including the ruling party, has diminished greatly the importance of political party influence over the broadcast television stations. Over 80 percent of households receive cable television, which includes local, privately financed channels, as well as many major international networks. Cable television call-in programs have given the public an additional means of expressing their views.

Controls over radio stations were more limited than those over television stations and are being liberalized further. During the 12-month period ending in September, the GIO received 496 applications for radio broadcast frequencies. A total of 71 frequencies were made available, and 6 of these were apportioned; applications for the remaining frequencies are under review. However, many of the newly authorized radio stations have limited broadcast ranges, and approximately 40 of the available frequencies are in remote areas, leading critics to charge that the stations do not constitute a genuine counterweight to the authorities' monopoly on island-wide radio broadcasting.

Observers noted that licensing requirements oblige prospective radio station owners to have more capital than actually is required to operate a station. This requirement inhibits individuals or groups from applying for radio station licenses. However, the GIO claims that the \$1.5 million (NT\$50 million) required capitalization is based upon consideration of actual business costs and notes that the required capitalization is reduced to \$31,250 (NT\$1 million) for radio stations serving remote areas or designated ethnic groups and civic organizations, or which promote local development. Reportedly over 100 unlicensed "underground" radio stations, many associated with opposition parties, operate illegally.

There is a vigorous and active free press. In 1999 the LY abolished the Publications Law, which had empowered the police to seize or ban printed material that was seditious, treasonous, sacrilegious, interfered with the lawful exercise of public functions, or violated public order or morals. There were no reports of censorship of the print media during the year, nor were there any seizures of materials on political grounds. The police sometimes seize pornographic materials in accordance with the Prevention of Child and Juvenile Sexual Trafficking Law. In October prosecutors searched the offices of a newspaper and homes of two of its reporters in connection with the leak of a confidential transcript concerning a National Security Bureau investigation. Critics charged that the searches violated press freedom and urged reforms that would require judicial approval before such searches could be undertaken. The Ministry of Justice maintained that such limits would cripple law enforcement efforts.

The GIO requires that any publications imported from mainland China be sent to the GIO Publications Department for screening before sale or publication and still seeks to ban the importation of publications that advocate communism or the establishment of united front organizations, endanger public order or good morals, or violate regulations or laws. However, few local publishing companies observe this regulation, and

substantial People's Republic of China-origin material is imported every year and is widely available at schools and in research institutes. Moreover, cable television systems broadcast uncensored television channels from mainland China.

Among other restrictions regulating the media are those precluding persons previously convicted of sedition from owning, managing, or working in television and radio stations. DPP leaders, many of whom were convicted of sedition after the 1979 Kaohsiung incident, nevertheless are not affected because their rights were restored through presidential amnesties by the previous administration.

There are few restrictions on academic freedom. The expression of dissenting political views is common.

b. Freedom of Peaceful Assembly and Association

The Constitution provides for freedom of assembly, and the authorities respect this right in practice. Permits are required for outdoor public meetings, and they are routinely granted.

The Constitution provides for freedom of association; and the authorities respect this right in practice. The Civic Organization Law requires all civic organizations to register. No groups are known to experience any difficulty registering. Registered civic organizations may solicit donations from the public, contributors to them may take income tax deductions for their contributions, and the employees of such organizations are eligible to receive employment-linked benefits such as national health insurance coverage.

Under the Civic Organization Law the Constitutional Court holds the power to dissolve political parties. Grounds for dissolution include objectives or actions that are deemed to jeopardize the existence of the "Republic of China." The Constitutional Court heard no cases under this law during the year.

c. Freedom of Religion

The Constitution provides for freedom of religion, and the authorities respect this right in practice. Religious organizations may register with the central authorities through their island-wide associations under either the Temple Management Law, the Civic Organizations Law, or the chapter of the Civil Code that governs foundations and associations. Registered organizations operate on a tax-free basis and are required to make annual reports of their financial operations. While individual places of worship may register with local authorities, many choose not to register and operate as the personal property of their leaders. In the past, concern over abuse of tax-free privileges or other financial misdeeds occasionally prompted the authorities to deny registration to new religions whose doctrines were not clear, but there were no reports that the authorities sought to suppress new religions during the year. In December the President granted a special amnesty to 19 conscientious objectors who had been imprisoned for refusing military service on religious grounds.

d. Freedom of Movement, Foreign Travel, Emigration, and Repatriation

The authorities do not restrict freedom of internal travel. Foreign travel by passport holders is common.

Nonresident Taiwan passport holders are usually issued "overseas Chinese" passports and must seek entry permits for travel to Taiwan. According to 1992 revisions to the National Security Law (NSL), entry permits may be refused only if there are facts sufficient to create a strong suspicion that a person is engaged in terrorism or violence. Reasons for entry and exit refusals must be given, and appeals may be made to a special board. No exit or entry permit refusals were reported during the year. In September, in connection with the trial of a political dissident who had returned to the island without obtaining clearance, a high court judge applied to the Council of Grand Justices for review of the law. In his application the judge questioned whether the NSL's requirement for nonresident passport holders to obtain permission to enter Taiwan violated constitutional provisions for freedom of movement. In 1993 new measures provided that holders of Taiwan passports who normally reside abroad may return and regain their household registration, a document required to vote or participate as a candidate in an election.

Since 1987 Taiwan has relaxed substantially strictures against travel by residents to the Chinese mainland, and such travel is common. Relatively tight restrictions on the entry of Chinese from the mainland for national security reasons, which previously had been relaxed to permit cross-strait exchanges, were further relaxed in December when the LY passed legislation permitting mainland Chinese to visit for business, academic, or tourism purposes. The Government also revised regulations to permit PRC journalists to come to Taiwan for the first time ever.

There is no law under which noncitizens may ask for asylum, and there were no applications for refugee status during the year. While the authorities have been reluctant to return to the mainland those who might suffer political persecution, they regularly deport to the mainland, under provisions of the Mainland Relations Act, mainlanders who illegally enter the island for economic reasons. There were no reports of forced return of persons to a country where they feared persecution.

The detention centers for illegal immigrants continue to attract media attention. While recent expansion projects sought to relieve overcrowded conditions, some detention centers continued to be overcrowded, and inmates complained about overly long stays at the centers while waiting to be repatriated. The Bureau of Entry and Exit faults mainland Chinese authorities for delays in repatriation. In July the authorities began allowing some detained illegal aliens from mainland China to return to the mainland by airplane via Hong Kong at their own expense. In September the authorities began repatriating illegal alien mainland Chinese directly from the island of Matsu rather than taking them to detention centers on Taiwan.

In 1999 the LY enacted the Entry, Exit, and Immigration Law, which provided strict sentencing guidelines for alien smuggling. Several cases have been brought before the courts under this new law (see Section 6.f.).

Section 3 Respect for Political Rights: The Right of Citizens to Change Their Government

Citizens have the right to change their government peacefully, and citizens exercise this right in practice. In March for the first time an opposition party candidate was elected President, winning a 39 percent plurality in a 3-man race. Generally free and fair popular elections for the LY have taken place three times since 1992. In April the National Assembly (NA) voted to allow its term to expire without new elections. The NA determined that an election would be called in the event that the NA is needed to decide a presidential recall or to amend the Constitution. Most of the NA's functions were transferred to the LY. Corruption and vote buying, particularly in local elections, are problems that the new administration is seeking to address. Within its first 6 months in office, the Chen Administration had obtained convictions for corruption against one LY member and one former LY member. In addition, another former LY member and three local government officials are under investigation, and 215 persons were indicted on charges of vote buying. In October the Ministry of Justice Investigation Bureau was ordered to cease political intelligence gathering regarding politicians and political parties, and to concentrate on criminal matters.

In the wake of its victory in the March presidential election, the ruling DPP grew to include some 350,000 members. The KMT remains the largest political party, with over 750,000 members reaffirming their membership in a registration drive following the March electoral defeat. It secured a working majority in the 1998 LY elections and now controls 112 of 220 seats. The runner-up in the presidential election, a KMT-maverick candidate, founded the People First Party, which has 17 LY members. The New Party founded by breakaway KMT members in 1993 has 9 seats in the LY and about 30,000 members.

The KMT benefits from its ownership of a major television channel and of enterprises and business holdings estimated to be worth in excess of \$6 billion, and from the fact that its members still hold many key positions throughout the bureaucracy and in local governments. The DPP's election victory notwithstanding, its ability to administer the island is facing a severe challenge. The lack of cooperation between the ruling and opposition parties in the LY has kept the new Administration from fully implementing its legislative agenda. In November the opposition parties formed an alliance in the LY and initiated a campaign to recall President Chen. While by year's end this effort had stalled, the opposition alliance since October has refused to work directly with the Premier.

The Constitution provides for equal rights for women, and, while still underrepresented, their role in government and politics is increasing. In March a woman for the first time was elected vice president, and nine women are members of the Cabinet, including the Minister of Interior and the Chairperson of the Mainland Affairs Council. Two of 29 Control Yuan members are women. A number of women also hold important political party positions. Two of the 11 members of the DPP Central Standing Committee are women, as are 11 of the KMT's 31 Central Standing Committee members.

Aborigine representatives participate in most levels of the political system, partially through holding 8 reserved seats in the LY--half of which are elected by the plains Aborigines and half by mountain Aborigines. An Aborigine serves as Chairman of the Council of Aboriginal Affairs. The magistrate of Taitung County is an Aborigine first elected in 1993 and reelected in 1997.

Section 4 Governmental Attitude Regarding International and Nongovernmental Investigation of Alleged Violations of Human Rights

The principal human rights organizations are the Chinese Association of Human Rights and the Taiwan Association for Human Rights. Both organizations operate freely, although coordination between the two is limited. Both organizations investigate human rights complaints, many of which come to public attention through the media and statements by lawmakers from all political parties. The authorities also permit representatives of international human rights organizations to visit and meet with citizens freely. Amnesty International maintains a Taipei office. Women's and children's human rights groups monitor police and judicial performance and campaign to correct abuses (see Section 1.c.).

In his May 20 inaugural address, President Chen declared that Taiwan must include international human rights in its legal code and establish a national human rights committee.

Section 5 Discrimination Based on Race, Sex, Religion, Disability, Language, or Social Status

The Constitution provides for equality of citizens before the law "irrespective of sex, religion, race, class, or party affiliation." Constitutional amendments enacted in 1997 also provide for the rights of disabled persons. While the authorities are committed to protecting these rights, discrimination against some groups continues.

Women

Violence against women, including domestic violence and rape, remains a serious problem. Wife beating is especially widespread. In 1994 the DPP Women's Development Committee claimed that 35 percent of married women were victims of spousal abuse. The authorities fund domestic violence hot lines, which have handled some 17,000 cases over the past decade. The Ministry of Justice has taken steps to strengthen the protection of women and children against violence in accordance with the 1999 Domestic Violence and Protection Control Law. This law allows prosecutors to take the initiative in investigating complaints of domestic violence without waiting for a spouse to file a formal lawsuit. Although some cases are prosecuted, strong social pressure discourages abused women from reporting incidents to the police in order to avoid disgracing their families. Rape also remains a serious problem, and its victims are stigmatized socially. One expert estimates that 7,000 rapes occur annually--10 times the number reported to the police. In 1999 the LY passed legislation that permits the prosecution of the crime of rape without requiring the victim to press charges. According to a law passed in 1997, rape trials no longer are public unless the victim consents. The Code of Criminal Procedure establishes the punishment for rape as not less than 5 years' imprisonment, and those convicted usually are sentenced to from 5 to 10 years in prison. There were 2,042 cases of rape or sexual assault reported in 1999. A total of 627 persons were indicted for the crime of rape and 197 were convicted. Marital rape is a crime.

In 1998 the LY passed legislation that required all city and county governments to set up domestic violence prevention and control centers. The centers provide victims with protection, shelter, legal counseling, and other services on a 24-hour basis. From July 1999 to October 2000 the centers handled 34,904 cases of domestic violence. Under the law, a judicial order may be obtained to prohibit violators from approaching victims. The Ministry of Interior also provides assistance, such as financial assistance and shelter, to victims of rape or domestic violence. In 1999 the Ministry established a domestic violence prevention committee to implement a comprehensive program for the protection of women and children.

Prostitution, including coerced prostitution and child prostitution, is also a problem (see Section 6.f. and 6.c.). The authorities are phasing out legalized prostitution; in 1999 the LY banned prostitution, but exempted prostitutes already registered with the authorities. Under the law, no new houses of prostitution may be registered. There have been reports of a growing trend of young women, often well educated, voluntarily entering into part-time prostitution to earn additional spending money. There also are credible reports of women being trafficked into the country for purposes of prostitution (see 6.c. and 6.f.).

The law prohibits sex discrimination, and the LY in recent years has begun a systematic review and revision of those portions of the legal code relating to divorce, property, and child custody. As a result of legislation passed in 1998, many sections of the code that discriminated against women were eliminated. For example, women now are no longer required to adopt their husband's last name after marriage.

There is no equal employment rights law, and enforcement of existing sex discrimination laws remains a problem, although the major city and county administrations have set up committees to accept complaints of sexual discrimination in the workplace. Labor laws provide for maternity leave, but employers do not always grant it. Women also complain of being forced to quit jobs due to marriage, age, or pregnancy. Women often complain of less frequent promotions and lower salaries than their male counterparts, although the Labor Standards Law prohibits gender-based differences in wages. According to the Council on Labor Affairs, salaries for women average 85 percent of those for men performing comparable jobs.

Male spouses of female citizens now are treated the same as female spouses of male citizens. In 1999 the LY passed legislation permitting spouses of citizens to apply for permanent residency after residing in Taiwan for 5 years. However, the Citizenship Law continues to stipulate that the transmission of citizenship occurs exclusively through the father. A citizen mother with a foreign husband thus cannot apply for a Taiwan passport for her child. However, when such a child reaches age 14, the child may apply.

NGO's involved with women's issues include the Women Rescue Foundation and the Women Awakening Foundation, which help women victims of domestic violence; and the Garden of Hope, which helps rescue child prostitutes.

Children

The Constitution has provisions to protect children's rights, and the authorities are committed to supporting them. Education for children between 6 and 15 years of age is free and compulsory, and this rule is enforced. The percentage of school age children attending primary school is 99.92 percent, and those attending junior high school 99.89 percent. Children also are provided health care under the national health insurance scheme.

Child abuse is a significant problem. In the first 10 months after the Domestic Violence Control Law was passed in mid-1999, the Domestic Violence Protection Center received more than 900 applications for protection of children. The 1993 revision of the Child Welfare Act states that any persons discovering cases of child abuse or neglect must notify the police, social welfare, or child welfare authorities, that child welfare specialists must make such notification within 24 hours, and that the authorities involved must issue an investigation report within 24 hours. Both the Ministry of Interior's Social Affairs Department and nongovernmental specialists assert that these requirements are followed. During the year, a senior member of a Buddhist academy was charged with sexually assaulting several novice monks who were children. In 1999 the LY passed legislation creating a Child Welfare Bureau in the Ministry of Interior to enhance efforts to protect child welfare. Financial subsidies are provided to low-income families with children in day care facilities and to local governments to promote child protection efforts.

In 1999 the first juvenile court was established in Kaohsiung to handle criminal cases. Previously regular courts handled such cases. The new court includes 24 juvenile counselors. There are three juvenile detention centers on the island.

Although no reliable statistics are available, child prostitution is a serious problem, particularly among Aborigine children (see Section 6.c. and 6.f.). Most child prostitutes range from 12 to 17 years of age. The juvenile welfare law enables juvenile welfare bodies, prosecutors, and victims to apply to courts for termination of guardianship of parents and the appointment of qualified guardians if parents have forced their children into prostitution. If children are engaged in prostitution of their own free will, and the parents are incapable of providing safe custody, the courts may order competent authorities to provide counseling for not less than 6 months and not more than 2 years. However, legal loopholes and cultural barriers remain obstacles to enforcement. On occasion parents have sold a child into prostitution, a problem associated mostly with Aborigine families (see Section 6.c.).

According to some reports, brothel owners, to prevent child prostitutes from escaping, use violence, drug addiction, and other forms of coercion. In 1995 the LY passed legislation providing for as much as 2 years' incarceration for customers of prostitutes under the age of 18. The legislation also requires the publication of the names of violators in newspapers. Under a plan adopted by the NPA, city and county authorities across the island have established police task forces to strengthen their efforts against child prostitution. During the first 7 months of the year, 379 persons were arrested for violations of the law, resulting in 66 convictions. In 1999 the LY amended the Prevention of Child and Juvenile Sex Trafficking Law to prohibit the media from running advertisements involving the sex trade and to impose penalties on citizens arrested abroad for having sex with minors (see Section 6.f.).

People with Disabilities

The Disabled Welfare Law was revised and strengthened in 1990. It prohibits discrimination against the disabled and sets minimum fines at approximately \$2,400 (NT\$73,800) for violators. Under these revisions, new public buildings, facilities, and transportation equipment must be accessible to the disabled, while existing public buildings were to be brought into conformity by 1995. Although new buildings appear to meet accessibility requirements, there does not as yet appear to be a substantial effort aimed at refitting older buildings to accommodate disabled people.

A leading expert in the field estimates that the number of disabled is between 400,000 and 500,000—possibly as high as 700,000. One-third of the total are severely disabled and receive shelter or nursing care from the authorities. The Disabled Welfare Law requires large public and private organizations to hire disabled persons equal to 2 and 1 percent of their work forces respectively. Organizations failing to do so must pay, for each disabled person not hired, the basic monthly salary (approximately \$570 (NT\$18,880)) into the Disabled Welfare Fund, which supports institutions involved in welfare for the disabled. Many organizations complain that it is difficult to find qualified disabled workers, and they appear to prefer to pay the fines involved.

Indigenous People

The island's only non-Chinese minority group consists of the Aboriginal descendants of Malayo-Polynesians already established when the first Chinese settlers arrived. According to the Council of Aboriginal Affairs, there were 381,000 Aborigines at the end of 1998. More than 70 percent are Christian, while the dominant Han Chinese are largely Buddhist or Taoist. The civil and political rights of Aborigines are protected fully under law. The NA amended the Constitution in 1992 and again in 1997 to upgrade the status of Aboriginal people, protect their right of political participation, and ensure their cultural, educational, and business development. In addition the authorities instituted social programs to help Aborigines assimilate into the dominant Chinese society. The cabinet-level Council of Aboriginal Affairs was established in 1996 to protect Aboriginal rights and interests. Critics have noted that its budget is quite small. As part of its efforts to preserve ethnic identities, the Ministry of Education now includes some Aboriginal-language classes in primary schools. Under 1998 legislation, the Ministry of Education subsidizes university education for Aborigines and works to preserve Aboriginal culture, history, and language through the establishment of Aboriginal studies centers.

Although they face no official discrimination, Aborigines have had little impact, over the years, on major decisions affecting their lands, culture, traditions, and the allocation of their natural resources. In addition they complain that they are prevented from owning ancestral lands in mountain areas under the authorities' control, some of which have been designated as national parks or conservation areas. Land rights remain a crucial issue for Aborigines, along with social discrimination, educational underachievement, low economic status, and high rates of alcoholism. Some Aboriginal leaders have come to believe that only some form of autonomy can preserve their land rights, which constantly are threatened by Chinese developers who use connections and corruption to gain title to Aboriginal land. According to MOI statistics, only about 50 percent of Aborigine children complete elementary school. In the past, Aborigines were not allowed to use non-Chinese personal names on legal documents, but this rule was changed by legislation in 1996.

The sale of Aboriginal girls into prostitution by their parents also is a problem (see Sections 6.c. and 6.f.).

Section 6 Worker Rights

a. The Right of Association

Although the JY ruled in 1995 that the right to organize trade unions is protected by the Constitution, legislation implementing this decision has not passed; teachers, civil servants, and defense industry workers still are not permitted to form labor unions. Even with this ruling, a number of laws and regulations limit the right of association. Labor unions may draw up their own rules and constitutions, but they must submit these to the authorities for review. Unions may be dissolved if they do not meet certification requirements or if their activities disturb public order. However, there were no instances of the authorities dissolving local labor groups or denying new unions certification.

The Labor Union Law requires that union leaders be elected regularly by secret ballot, and, in recent years, workers have sometimes rejected ruling party or management-endorsed union slates. Under the new administration there has been no reported political interference in union affairs. Unions may form confederations, but no administrative district, including a city, county, or province, can have competing labor confederations.

Under the previous administration the Council of Labor Affairs (CLA) recognized one island-wide labor federation, the KMT-associated Chinese Federation of Labor. The DPP administration significantly eased restrictions on the right of association by recognizing three new island-wide labor federations. In May the CLA recognized the Taiwan Confederation of Trade Unions (previously known as the National Federation of Industrial Unions). The Chinese Labor Unions Federation and the National Trade Union Confederation were established in July and August respectively. Nonetheless the percentage of workers who are labor union members has not increased in recent years due to the extremely low unemployment rate, higher wages, the shift from manufacturing to service industries, the small scale and poor organization of most unions, and past prosecution of labor activists by the authorities. As of March, some 2.9 million workers, approximately 30 percent of the 9.7 million-person labor force, belonged to 3,785 registered labor unions.

The law governing labor disputes recognizes the right of unions to strike but imposes restrictions that make legal strikes difficult and seriously weaken collective bargaining. For example the authorities require mediation of labor/management disputes when they deem the disputes to be sufficiently serious or to involve "unfair practices." The law forbids both labor and management from disrupting the "working order" when either mediation or arbitration is in progress. The law mandates stiff penalties for violations of no-strike and no-retaliation clauses. Employers in the past sometimes ignored the law and dismissed or locked out workers without any legal action being taken against them, although no such cases were reported during the year. The CLA reported that from 1990-99, there were 34 strikes, of which 23 involved workers at bus companies seeking increased pay and reduced hours. Strikes threatened in late 1999 and in August by airport employees did not materialize because workers obtained satisfactory concessions from management. There were no strikes in 1999 and three strikes in 1998.

In 1971 the People's Republic of China replaced Taiwan in the International Labor Organization. The CFL is affiliated with the International Confederation of Free Trade Unions. The new federations are not internationally affiliated.

b. The Right to Organize and Bargain Collectively

Except for the categories of workers noted in Section 6.a., the Labor Union Law and the Settlement of Labor Disputes Law give workers the right to organize and bargain collectively.

Under the Labor Union Law, employers may not refuse employment to, dismiss, or otherwise unfairly treat workers because they are union members. However, in practice employers sometimes have dismissed union leaders without reasonable cause, or laid them off first during employee cutbacks, and observers point out that the law has no specific penalties for violations. Several union leaders of a container terminal company were laid off at the end of 1998 following a strike earlier in the year. According to the National Federation of Independent Trade Unionists, over 400 trade unionists and supporters have been fired since the labor movement began to expand after the 1987 lifting of martial law.

The Collective Agreements Law provides for collective bargaining but does not make it mandatory. Since such agreements are used only in large-scale enterprises, and less than 5 percent of enterprises fall into this category, the proportion of workers covered remains small. Employers set wages generally in accordance with market conditions.

Firms in export processing zones are subject to the same laws regarding treatment of labor unions as other firms and follow normal practices including collective bargaining agreements with their unions.

c. Prohibition of Forced or Compulsory Labor

The Labor Standards Law prohibits forced or compulsory labor, and there were no reports of these practices, apart from forced prostitution (see Sections 5 and 6.f.). The law prohibits forced and bonded labor by children, and the authorities generally enforce this prohibition effectively. However, some parents of Aboriginal children sell them into prostitution, and the requirements of the law make prosecution difficult at times (see Section 5).

In 1999 nine women who were forced to work as "comfort women" (women who, during World War II, were forced to provide sex to soldiers of the Japanese Imperial Government) filed lawsuits in Japan seeking \$100,000 (NT\$3,000,000) and a formal apology from the Japanese Government. The case is before the courts.

d. Status of Child Labor Practices and Minimum Age for Employment

The Labor Standards Law (LSL) prohibits forced and bonded child labor, and the authorities generally enforce this prohibition effectively, although the sale of Aboriginal children into prostitution remains a problem (see Sections 5 and 6.c.). To protect children from the worst forms of exploitation, the authorities have enacted a Child Welfare Law, Juvenile Welfare Law, and Child and Juvenile Sexual Transaction Prevention Act to protect children from debt bondage, prostitution, pornographic performances, and other illicit activities specified in ILO Convention 182. The LSL stipulates age 15, after compulsory education required by law ends, as the minimum age for employment. County and city labor bureaus enforce minimum age laws.

e. Acceptable Conditions of Work

The LSL mandates labor standards. The law is not well enforced in areas such as overtime work and pay or retirement payments. A 1996 amendment extended the LSL to all salaried employees. By the end of 1999, the LSL covered 5.7 million of Taiwan's 6.6 million salaried workers. The CLA conducts publicity campaigns to increase public awareness of the law and has set up telephone hot lines to accept complaints of LSL violations.

The CLA did not increase the minimum monthly wage, which remained at \$505 (NT\$15,840). While sufficient in less expensive areas, this wage does not assure a decent standard of living for a worker and family in urban areas such as Taipei. However, the average manufacturing wage is more than double the legal minimum wage, and the average for service industry employees is even higher. In June the LY passed legislation to reduce working hours from 48 hours per week to 84 hours in 2 weeks. In 1998 the public sector adopted a new system providing for a 5-day workweek every other week. According to a CLA survey, about one-third of private enterprises also have adopted that system.

Because of an acute labor shortage (the unemployment rate remained at 2.7 percent in 1999), there has been a legal influx of foreign workers in the last several years. The law stipulates that foreign workers who are employed legally receive the same protection as local workers. However, in 1998 foreign domestic workers were exempted from the LSL, denying them the right to safeguards provided to citizens. Moreover authorities say that in many cases illegal foreign workers, many from Thailand and the Philippines, receive board and lodging from their employers, but no medical coverage, accident insurance, or other benefits enjoyed by citizens. Illegal foreign workers also are vulnerable to employer exploitation in the form of confiscation of passports, imposition of involuntary deductions from wages, and extension of working hours without overtime pay. In addition observers say that conditions in many small- and medium-sized factories that employ illegal foreign labor are dangerous, due to old and poorly maintained equipment. Observers have alleged that legal foreign workers are sometimes similarly exploited. The CLA has urged employers not to mistreat foreign workers, and employers are subject to the same penalties for mistreating foreign workers as for mistreating citizen workers. In November the CLA ended the practice of requiring foreign female workers to undergo pregnancy tests. In the past, those who tested positive were subject to immediate deportation. According to CLA statistics, there are 311,000 legal foreign workers, including approximately 140,000 workers from Thailand and 108,000 workers from the Philippines. In 1999 the CLA signed a labor agreement with Vietnam permitting its workers to obtain employment in Taiwan. The CLA has stated that its goal is to keep the number of foreign workers at the 300,000 level. In June the authorities placed an indefinite ban on the entry of new Philippine blue-collar workers, insisting that the ban was due to the high rate at which Philippine workers left their jobs and the aggressive stance of the Philippine Representative Office in labor cases. The ban was lifted in December. Due to increased unemployment among blue-collar workers and Aborigines, the CLA announced on September 1 that it would reduce the foreign labor quota on major construction projects from 50 to 30 percent.

The 1991 revised Occupational Safety and Health Law (OSHL) extended coverage to include workers in agriculture, fishing, and forestry industries and appeared to strengthen penalties for safety violations. It nevertheless still provides only minimal standards for working conditions and health and safety precautions. The OSHL gives workers the right to remove themselves from dangerous work situations without jeopardy to continued employment.

The 1993 Labor Inspection Law was designed to strengthen the enforcement of labor standards and health and safety regulations. It increased the number of enterprises and types of safety factors to be inspected; gave inspectors quasi-judicial powers; required preexamination of dangerous working places such as naphtha-cracking plants, pesticide factories, and firecracker factories; and raised penalties for violations. Critics allege that the CLA does not effectively enforce workplace laws and regulations because it employs too few inspectors. During the year, 33 new inspectors were added resulting in 256 inspectors available for the approximately 300,000 enterprises covered by the OSHL. The inspection rate in 1999 was 8.2 percent, down slightly from 8.3 percent in 1998. The CLA maintains that it has strengthened its safety checks at workplaces with a greater risk of worker injury and is offering training programs to help workers protect their rights. Since many enterprises are small, family-owned operations employing relatives unlikely to report violations, actual adherence to the hours, wage, and safety sections of various labor laws is hard to document but is believed to be minimal in these smaller enterprises. The CLA has established hot lines to receive complaints about OSHL violations.

f. Trafficking in Persons

There is no law specifically prohibiting trafficking; however, traffickers of persons for sexual purposes may be prosecuted under the Sexual Violation Offenses Act, which outlaws sexual transactions for profit. In addition in 1999 the LY enacted legislation which criminalized alien smuggling (see Section 2.d.). The 1995 Statute for Prevention of Child and Juvenile Sexual Trafficking empowers the authorities to prosecute any person who intends to force a girl below the age of 18 to engage in sex or to sell or pawn her by other means.

Nonetheless there are occasional reports of organized crime rings trafficking in women for the purpose of forced prostitution. The majority of cases involve women from mainland China, Thailand, or Cambodia. Criminal gangs in mainland China reportedly use deceptive measures to recruit and procure young women who are then funneled to Taiwan-based organized crime gangs who arrange sham marriages to enable them to obtain visas to enter Taiwan. The women then are forced into prostitution. The extent of the problem is difficult to determine; there have been 50,000 marriages between persons from mainland China and Taiwan since 1992, but less than 1 percent are believed to involve the trafficking gangs. In September Cambodian police arrested two men from Taiwan for allegedly luring Cambodian women into fake marriages for purpose of trafficking them to Taiwan where they would be forced into prostitution. Observers have noted that light sentences for traffickers hamper police efforts to end this trade. Trafficking victims, if arrested for prostitution, also face light sentences, such as fines or deportation (see Sections 5 and 6.c.).

The sale of Aboriginal girls into prostitution by their parents also is a problem. However, this practice is believed to have declined, at least in part due to intensive efforts on the part of social workers and NGO's to combat the practice. The NPA also coordinated the formation of police task forces in local jurisdictions to investigate and prevent the sale of Aboriginal girls into prostitution. From the beginning of 1998 through April 1999, 46 Aboriginal girls were found to be engaged in prostitution.

Taiwan is a major transit point for persons from mainland China attempting to travel illegally to the United States and other countries. In 1999 the LY enacted the Entry, Exit, and Immigration Law, which provided for up to 3 years imprisonment and/or up to \$30,000 (NT\$ 1,000,000) fine for alien smuggling. Several cases have been brought before the courts under this new law.

[End.]